REMARKS

I. Introduction

Claims 18-33 are currently pending. For at least the reasons set forth below, Applicants submit the claims are in condition for allowance.

Applicant notes with appreciation the acknowledgement of the claim for foreign priority and the indication that all of the certified copies of the priority documents have been received.

II. Rejection of Claims 18-29, 31 and 33 Under 35 U.S.C. §103(a)

Claims 18-29, 31 and 33 are rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,329,531 ("Diepstraten"). Applicant respectfully submits that the rejection should be withdrawn for at least the following reasons.

In rejecting a claim under 35 U.S.C. § 103(a), the Examiner bears the initial burden of presenting a prima facie case of obviousness. In re Rijckaert, 9 F.3d 1531, 1532, 28 U.S.P.Q.2d 1955, 1956 (Fed. Cir. 1993). To establish prima facie obviousness, three criteria must be satisfied. First, there must be some suggestion or motivation to modify or combine reference teachings. In re Fine, 837 F.2d 1071, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988). This teaching or suggestion to make the claimed combination must be found in the prior art and not based on the application disclosure. In re Vaeck, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991). Second, there must be a reasonable expectation of success. In re Merck & Co., Inc., 800 F.2d 1091, 231 U.S.P.Q. 375 (Fed. Cir. 1986). Third, the prior art reference(s) must teach or suggest all of the claim limitations. In re Royka, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974). In addition, not only must the cited references teach or suggest each element of the claim, but the prior art must also suggest the desirability of combining the elements in the manner contemplated by the claim, and the mere fact that references can be combined or modified does not render the resultant combination obvious. M.P.E.P. § 2143.01 (citing In re Mills, 916 F.2d 680, 16 U.S.P.Q.2d 1430 (Fed. Cir. 1990)).

Claim 18 recites, in relevant parts, "when there is a collision with a second one of the central units, the second one of the central units using a same time slot and a same frequency

channel for a transmission frame as the first central unit, at least one of the first one of the central units and the second one of the central units: i) immediately refraining from occupying the time slot, and ii) attempting occupation again after a time lag." Claim 19 recites, in relevant parts, "if another one of the central units wants to occupy the same one of the containers [that the first one of the central units wants to occupy], withdrawing by the first one of the central units and attempting occupation again after a lag time."

In the "Response to Arguments" section of the final Office Action, the Examiner makes the following contentions: a) since Diepstraten discloses both a wireless system and a wireline system, and since CSMA/CA protocol is used in the wireless portion of the system, it would be obvious to utilize the same protocol in the wireline system; b) "it is more cost effective to reuse a feature rather than start from scratch and develop a new approach . . . [e]specially since the wireline network has central units, which are just as likely to communicate at the same time over the wireline network just as the mobile units communicate over the wireless network at the same time"; c) "the central units are fixed in position on the wireline network, which makes it easier to determine the time to listen or the time to wait for a backoff"; d) "if the multiframe duration is longer in time than the calculated time to listen, the multiframe time **can easily be used** for the backoff time since it would guarantee compliance with the proper time to backoff and be very easy to implement since this time is already used in the system"; and e) "there is strong motivation from a cost viewpoint as well as from a sound engineering approach to suggest that . . . Diepstraten would have been modified by an ordinary person of skill in the art to **provide for collisions on the wireline network, which are sure to occur since there is no mechanism to prevent them.**"

Applicant notes that the Examiner's contentions inherently contradict the asserted conclusion: the Examiner notes that "**there is no mechanism**" disclosed in Diepstraten to **prevent the collisions** on the wireline network, yet the Examiner states that this lack of disclosure in Diepstraten is the very motivation for modifying the teachings of Diepstraten to address the situation involving **collisions between two central units.** Not only is this conclusion completely illogical, but it is a classic example of unsupported speculation. As explicitly acknowledged by the Examiner, Diepstraten is **completely silent as to how to deal with actual collisions** between two central units, so it is a wonder why any reasonable person

would even think about this issue based on the disclosure of Diepstraten, let alone be motivated by Diepstraten to make the modification to address this situation. Diepstraten only discloses the attempt at **competitive occupation of radio resources within the same superframe** with **only one central station being involved**. In contrast, the Applicant's claimed invention permits the occupation of entire superframes, thereby improving transmission efficiency and lowering overhead. Since Diepstraten is completely silent about this issue, even if one considers the disclosure of Diepstraten regarding the backbone network 30 between base stations 14 and 16, it is far-fetched to assert that Diepstraten would motivate one of ordinary skill in the art to address the situation involving **collisions between two central units**, as recited in claim 18 or claim 19.

In addition to the above, the Examiner's assertion that the lack of disclosure in Diepstraten regarding provisions for dealing with **actual collisions** between two central units is the very motivation for modifying the teachings of Diepstraten, i.e., to address the situation involving **collisions between two central units**, is further contradicted by the disclosure in Diepstraten which teaches a technique for "significantly" reducing **potential data collisions**, i.e., Diepstraten obviates the concern of potential collisions through an initial detection of the availability of the transmission medium and incorporating a time delay before attempting to determine if the medium is available or again busy. Since Diepstraten minimizes **potential data collisions**, thereby largely obviating the need for dealing with **actual collisions** (as evidenced by the fact that Diepstraten does not address dealing with actual collisions), it is simply illogical to assert that Diepstraten would motivate someone to think of a provision for dealing with actual collisions.

For at least the foregoing reasons, claims 18 and 19, as well as their dependent claims 20-29, 31 and 33, are patentable over Diepstraten.

III. Rejection of Claim 30 Under 35 U.S.C. § 103(a)

Claim 30 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Diepstraten in view of U.S. Patent No. 5,461,627 ("Rypinski").

Claim 30 depends from claim 18 and recites further patentable subject matter over Diepstraten. In addition, Rypinski has not been asserted to overcome, and does not overcome, the above-noted deficiencies of Diepstraten as applied against parent claim 18. Therefore, dependent claim 30 is allowable over Diepstraten and Rypinski for at least the same reasons as stated above with respect to claim 18.

IV. Allowable Subject Matter

Applicant thanks the Examiner's acknowledgment of claim 32 as containing patentable subject matter. As stated above, Applicant respectfully submits that claim 18, upon which claim 32 ultimately depends, is in allowable condition. Therefore, claim 32 is allowable in present form, and withdrawal of the objection to claim 32 as being dependent upon a rejected base claim is respectfully requested.

Conclusion

In light of the foregoing, Applicant respectfully submits that all of the pending claims 18-33 are in condition for allowance. Prompt reconsideration and allowance of the present application are therefore respectfully requested.

Respectfully submitted,

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